

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**PILAR ASTON,**

**Plaintiff**

**v.**

**THE CORPORATION OF  
MERCER UNIVERSITY,**

**Defendant.**

**Civil Action No. 1:13-CV-3172-  
RWS-JSA**

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**DEFENDANT CORPORATION OF MERCER UNIVERSITY'S  
RESPONSE TO PLAINTIFF'S MOTION FOR TEMPORARY  
RESTRAINING ORDER AND THE  
MAGISTRATE'S REPORT AND RECOMMENDATION**

COMES NOW the Corporation of Mercer University (hereinafter referred to as "Mercer") Defendant in the above-styled action and responds to Plaintiff's Motion for Temporary Restraining Order filed on February 19, 2014 and the United States Magistrate Judge Justin S. Anand's Report and Recommendation on the Motion for Temporary Restraining Order filed on February 28, 2014. Mercer states that it has no objections to Judge Anand's Report and urges the Court to accept his recommendation that the Plaintiff's

motion be denied for the reasons listed in his report as well as those reasons found below. In support of its response, Mercer shows the Court as follows:

### **ARGUMENT AND CITATION OF AUTHORITY**

Fed. R. Civ. P. 65(c) states that “the Court may issue a preliminary injunction or a temporary restraining order **only if** the movant gives security in an amount that the Court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” In Cataldi v. New York Community Bank, 1:13-CV-3972-RWS-JSA, 2014 WL 359954 (N.D. GA February 3, 2014) this court held, in addition to reasons similar to those cited in Judge Anand’s Report and Recommendation, that the Plaintiff could not secure a temporary restraining order because they did not offer to tender any amount as security for a TRO. See also, Jones v. Washington Mutual Bank et.al., 1:11-CV-0591-RWS, 2011 WL 825766 (N.D. GA March 3, 2011), LaCosta v. McCalla Raymer LLC et.al., 1:10-CV-1171-RWS, 2011 WL 166902 (N.D. GA January 18, 2011).

Plaintiff’s motion for a temporary restraining order is devoid of any offer to tender any security for that order. Moreover, Plaintiff makes no argument that she should not be required to pay any security into the Court.

Plaintiff has failed to meet the requirements of Fed. R. Civ. P. 65(c). Her motion for a temporary restraining order should be dismissed accordingly.

For the reasons cited in Judge Anand's Report and Recommendation on the Motion for Temporary Restraining Order and those listed above, Mercer prays that this Court dismiss the Plaintiff's Motion for Temporary Restraining Order.

RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of February, 2014.

/s/Jeffery O. Monroe

**JEFFERY O. MONROE**  
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Attorney for Defendant  
The Corporation of Mercer University

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing  
**DEFENDANT CORPORATION OF MERCER UNIVERSITY'S  
RESPONSE TO PLAINTIFF'S MOTION FOR TEMPORARY  
RESTRANING ORDER AND THE MAGISTRATE'S REPORT AND  
RECOMMENDATION** was electronically filed with the Clerk of Court  
using the CM/ECF system and mailed by United States Postal Services to  
the Plaintiff in this action at the following address:

Pilar Aston  
P.O. Box 19186  
Atlanta, GA 31126

This 28<sup>th</sup> day of February, 2014.

*/s/ Jeffery O. Monroe*

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**JEFFERY O. MONROE**  
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**CERTIFICATION PURSUANT TO L.R. 5.1B AND 7.1D**

I hereby certify that pursuant to Northern District of Georgia Local Rules 5.1B and 7.1D, the foregoing motion is proportionately spaced, prepared with a uniform typeface of Times New Roman 14-point and contains no more than 10 characters per inch of type.

This 28<sup>th</sup> day of February, 2014.

/s/Jeffery O. Monroe

**JEFFERY O. MONROE**

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